**HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE**

**AND**

**HON'BLE SHRI JUSTICE G. BHAVANI PRASAD**

**WRIT APPEAL NO. 473 OF 2006**

**BETWEEN:**

Y. Nageswar Rao

**……Appellant**

**And**

The Special Grade Deputy Collector & Revenue Divisional Officer, Hyderabad & another

**……Respondents**

**:: JUDGMENT ::**

Counsel for the Appellant : Smt S. Nanda

Counsel for Respondent Nos.1 and 2 : Government Pleader for Revenue

**Dated:** 28-04-2006

**Per G.S. SINGHVI, CJ**

Having failed to persuade the learned Single Judge to entertain his prayer for issue of a mandamus to the respondents to allow him to sell the assigned land, the appellant has filed this appeal.

We have heard Mrs. S. Nanda, advocate for the appellant and perused the record. In our opinion, the order under challenge does not suffer from any infirmity warranting interference.

Section 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act'), which was enacted by the Legislature with the object of protecting the lands assigned to the landless poor persons, contains a total embargo on the transfer of assigned lands, except to the extent permitted under sub-section (5) of Section 3 of the Act. For the sake of reference, Section 3 of the Act is re-produced below:

"**Prohibition of transfer assigned lands**:

1. Where before or after the commencement of this Act any land has been assigned by the Government to a landless poor person for purpose of cultivation or as a house-site then, notwithstanding to the contrary in any other law for the time being in force or in the deed to transfer or other document relating to such land, it shall not be transferred and shall be deemed never to have been transferred; and accordingly no right or title in such assigned land shall vest in any person acquiring the land by such transfer.

2. No landless poor person shall transfer any assigned land, and no person shall acquire any assigned land, either by purchase, gift, lease, mortgage, exchange or otherwise.

3. Any transfer or acquisition made in contravention of the provision of sub-section (1) or sub-section (2) shall be deemed to be null and void.

4. The provisions of this section shall apply to any transaction of the nature referred to in sub-section (2) in execution of a decree or order of a civil Court of any award or order of any other authority.

5. Nothing in this section shall apply to an assigned land which was purchased by a landless poor person in good faith and for valuable consideration from the original assignee or his transferee prior to the commencement of this Act and which is in the possession of such person for purposes of cultivation or as a house-site on the date of such commencement."

It is neither the pleaded case of the appellant nor Mrs. Nanda has argued that the transfer sought to be made by the appellant is covered by Section 3(5) of the Act. Therefore, we do not find any legal basis for accepting the appellant's prayer for permission to sell the assigned land.

With the above observations, the appeal is dismissed. However, it is made clear that if the appellant makes fresh application for transfer of land in terms of Section 3(5) of the Act, then the same shall be considered by the competent authority on its merits and decided, as early as possible, in accordance with law.

**G.S. SINGHVI, CJ**

**G. BHAVANI PRASAD, J**

28.04.2006

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